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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,936	10/03/2000	James R. Fenton	247/121	5611
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JONES DAY 555 SOUTH FLOWER STREET FIFTIETH FLOOR LOS ANGELES, CA 90071			EXAMINER DELGADO, MICHAEL A	
			ART UNIT	PAPER NUMBER

2144

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/677,936	<b>Applicant(s)</b> FENTON, JAMES R.	
	<b>Examiner</b> Michael S. A. Delgado	<b>Art Unit</b> 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01/24/2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/03/2000 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/24/2006 has been entered.

### **Response to Arguments**

1. Applicant's arguments include the failure of previously applied art to expressly disclose interaction between a user and one or more virtual character. See Response, dated 01/24/2006, page 14, lines 17-27. It is evident from the detailed mappings found in the rejection(s) below that US Patent No. 6,119,147 by Toomey et al, disclosed this functionality of one or more virtual character interacting "avatars" (Col 3, lines 35-45). Further, it is clear from the numerous teachings (previously and currently cited) that the provision for a story line "game", was widely implemented in the networking art. Thus, Applicant's arguments drawn toward distinction of the claimed invention and the prior art teachings on this point are not considered persuasive.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-7, 9-16, 18-22, 24-31, 33- 36 and 39-40 are rejected under 35

U.S.C. 103(a) as being unpatentable over US Patent No. 6,519,629 by Harvey et al in view of US Patent No. 6,119,147 by Toomey et al.

In claim 1, Harvey teaches about a system wherein a participant interacts with an evolving story line “game” that include at least one character, comprising (Fig 7):

a system manager “Central Controller Module” including memory and a processing unit, the system manager containing information about at least one character in the evolving story line, being connected to at least one form of media and at least one participant (Col 6, lines 20-40);

a message from a character in the evolving story sent by the system manager to the participant “player” that conveys information of the story line (Col 22, lines 50-65) (Col 23, lines 20-30) ;

a response sent by the participant to the system manager that responds to the message (Col 23, lines 20-30) (Fig 6); and (This is realized in the central controller ability to control the interaction between users).

a subsequent message from the same or a different character sent by the system manager that furthers the story line based on the participant's response (Col 23, lines 20-30) (Col 24, line 65- Col 25, line 5).

wherein the message, the response and the subsequent message are sent while the participant interacts with the evolving story line (Col 22, lines 50-65) (Col 23, lines 20-30).

But does not explicitly teach about using a virtual character. Harvey teaches the need for a solution of making the online E-commerce experience user friendly and informative for the inexperience computer users (Col 2, lines 50-65). Toomey teaches an improve method of online communication using a virtual character "avatar" (Col 3, lines 35-45).

It would have been obvious at the time of the invention for some one of ordinary skill to improve on Harvey invention by using the virtual character of Toomey invention in order to make the online service more productive and user friendly.

In claim 2, Harvey combined with Toomey, teaches about a system of claim 1 wherein the message is an E-mail (Harvey Col 24, lines 40-50).

In claim 3, Harvey combined with Toomey, teaches about a system of claim 1 wherein the message includes a hyperlink that reflects a possible response by the participant (Harvey Col 27, lines 20-30).

In claim 4, Harvey combined with Toomey, teaches about a system of claim 3 wherein the participant is directed to the web page by clicking on the hyperlink (Harvey Col 27, lines 20-30).

In claim 6, Harvey combined with Toomey, teaches about a system for providing an interactive story line "coordinated game" having a plurality of routes, wherein a participant "user" assumes the role of a character in the story line, interacts with one or more virtual character that are part of the story line and affects the progress of the story line, the system comprising (Fig 7) (Covered in claim 1):

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a system manager “Central Controller Module” that stores information about the story line , including information about the one or more virtual characters (Harvey Col 22, lines 45-60);

a message from a virtual character sent by the system manager to the participant that seeks a

response by the participant (Harvey Col 24, lines 25-45) (Covered in claim 1); and

a response by the participant to the message from the virtual character that represents how the participant's character interacts with the virtual character of the story line and that is provided to the system manager (Harvey Col 27, lines 40-50) (Covered in claim 1);

wherein the system manager progresses the story line along a route based on the participant's response (Harvey Col 27, lines 40-50) (Covered in claim 1).

In claim 7, Harvey combined with Toomey, teaches about a system of claim 6, further comprising:

a subsequent message from the system manager to the participant that has content depending on the participant's response and that seeks a subsequent response by the participant (Harvey Col 25, lines 5-20); and

a subsequent response the same or a different virtual character sent by the participant that represents how the participant's character interacts with the content of the subsequent message and that is provided to the system manager (Harvey Col 25, lines 5-20);

wherein the system manager further progresses the story line along a route based on the participant's subsequent response (Harvey Col 25, lines 20-40). (This is playing within the rules of the game).

In claim 9, Harvey combined with Toomey, teaches about a system of claim 7, further comprising:

additional subsequent messages from the one or more virtual characters sent by the system manager to the participant that have content depending on the participant's prior responses and that seek subsequent responses by the participant (Harvey Col 26, lines 5-15); and

additional subsequent responses by the participant that represent how the participant's character interacts with the content of the additional subsequent messages and that are provided to the system manager (Harvey Col 26, lines 5-15); (While the game is in process all interaction go through "Central Controller Module")

wherein the system manager further progresses the story line along a route to the story line's interim or final conclusion based on the participant's additional subsequent responses (Harvey Col 26, lines 5-15). (Interaction between players through "Central Controller Module" until game ends)

In claim 10, Harvey combined with Toomey, teaches about a system of claim 6, wherein the message is in the form of an email, video mail, voice mail, instant message, fax or phone message (Harvey Col 31, lines 25-40).

In claim 11, Harvey combined with Toomey, teaches about a system of claim 6, wherein the message is in the form of an email containing a hyperlink to a web page, and the participant visits the web page to obtain information about the story line (Harvey Col 27, lines 20-30).

In claim 12, Harvey combined with Toomey, teaches about a system of claim 11, wherein the web page includes a textual, video, graphical or audio description of another character in the story line (Harvey Col 5, lines 55-67) (Harvey Col 27, lines 40-50).

In claim 13, Harvey combined with Toomey, teaches about a system of claim 6, wherein the message is personalized by indicating the participant's real-life name or the participant's real-life address (Harvey Col 12, lines 40-55).

In claim 14, Harvey combined with Toomey, teaches about a system of claim 6, wherein the message provided by the system manager is a message from another character in the story line (Harvey Col 26, lines 5-15).

In claim 15, Harvey combined with Toomey, teaches about a system of claim 6; wherein the system administrator includes a server (Harvey Col 6, lines 20-30).

In claim 16, Harvey combined with Toomey, teaches about a system of claim 6, wherein the message and response between the system manager and participant are exchanged over the Internet (Harvey Col 6, lines 40-50).

In claim 18, Harvey combined with Toomey, teaches about a system of claim 6 wherein the story line is educational, erotic, and historical or involves espionage (Harvey Col 8, lines 35-45).

In claim 19, Harvey combined with Toomey, teaches about a system of claim 6 wherein the role of the character in the storyline assumed by the participant is the participant's real-life identity (Harvey Col 12, lines 40-55) (Harvey Col 24, lines 10-25).



In claim 20, Harvey combined with Toomey, teaches about a system of claim 11, wherein the web page contains information regarding actual events occurring in reality and fictional information that describes the story line (Harvey Col 23, lines 40-55). (A virtual card game)

In claim 21, Harvey combined with Toomey, teaches about a method for providing an interactive story line "game" having a plurality of routes one or more virtual characters, wherein a participant "user" assumes the role of a character in the story line (player within a game), interacts with one or more virtual characters in the story line and affects the progress of the story line, the method comprising (Fig 7) (Harvey Col 26, lines 5-15) (Covered in claim 1):

storing information about the story line, including information about one or more virtual characters (Harvey Col 6, lines 20-40) (Covered in claim 1);

sending a message to the participant that seeks a response by the participant (Harvey Col 24, lines 25-45) (Covered in claim 1);

receiving a response by the participant to the message that represents how the participant's character interacts with the virtual character the story line; and

progressing the story line along a route based on the participant's response (Harvey Col 24, lines 45-55).

In claim 22, Harvey combined with Toomey, teaches about a method of claim 21, further comprising:

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sending a subsequent message from the same or a different virtual character to the participant that contains content depending on the participant's response and that seeks a subsequent response by the participant (Harvey Col 25, lines 5-20) (Covered in claim 1);

receiving a subsequent response by the participant that represents how the participant's character interacts with the content contained in the subsequent message (Harvey Col 25, lines 5-20); and

further progressing the story line along a route based on the participant's subsequent response (Harvey Col 25, lines 20-40). (This is the interaction that take place while play a game)

In claim 24, Harvey combined with Toomey, teaches about a method of claim 22, further comprising:

sending additional subsequent messages from the same or a different virtual character to the participant that have content depending on the participant's prior responses and that seek subsequent responses by the participant (Harvey Col 26, lines 5-15);

receiving additional subsequent responses by the participant that represent how the participant's character interacts with the content of the additional subsequent messages (Harvey Col 26, lines 5-15); and

further progressing the story line along a route to the story line's interim or final conclusion based on the participant's additional subsequent responses (Harvey Col 26, lines 5-15). (The above claim is consistent with play a game from a "Central Controller Module")

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In claim 25, Harvey combined with Toomey, teaches about a method of claim 21, wherein sending the message comprises sending an e-mail, video mail, voice mail, instant message, fax or phone message (Harvey Col 31, lines 25-40).

In claim 26, Harvey combined with Toomey, teaches about a method of claim 21, wherein the message is in the form of an e-mail containing a hyperlink to a web page, and the participant visits the web page to obtain information about the story line (Harvey Col 27, lines 20-30).

In claim 27, Harvey combined with Toomey, teaches about a method of claim 26, wherein the web page includes a textual, video, graphical or audio description of another character in the story line (Harvey Col 5, lines 55-67) (Harvey Col 27, lines 40-50).

In claim 28, Harvey combined with Toomey, teaches about a method of claim 21, wherein the message is personalized by indicating the participant's real-life name or the participant's real-life address (Harvey Col 12, lines 40-55).

In claim 29, Harvey combined with Toomey, teaches about a method of claim 21, wherein the message is a message from another character (another player) in the story line (Harvey Col 26, lines 5-15).

In claim 30, Harvey combined with Toomey, teaches about a method of claim 21, wherein the information about the story line is stored on a server (Harvey Col 6, lines 20-30).

In claim 31, Harvey combined with Toomey, teaches about a method of claim 21, wherein the message and response are exchanged over the Internet (Harvey Col 6, lines 40-50).

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In claim 33, Harvey combined with Toomey, teaches about a method of claim 21, wherein the story line is educational, erotic, historical or involves espionage (Harvey Col 8, lines 35-45).

In claim 34, Harvey combined with Toomey, teaches about a method of claim 21, wherein the role of the character in the story line assumed by the participant is the participant's real-life identity (Harvey Col 12, lines 40-55) (Harvey Col 24, lines 10-25).

In claim 35, Harvey combined with Toomey, teaches about a method of claim 26, wherein the web page contains information regarding actual events occurring in reality and fictional information that describes the story line (Harvey Col 23, lines 40-55).

In claim 36, Harvey combined with Toomey, teaches about a system for providing an interactive story line "game" having a plurality of routes, wherein a participant "user" assumes the role of a character in the story line, interacts with one or more virtual characters in story line and affects the progress of the story line (play within the rule of the game), the system comprising (Fig 7) (Covered in claim 1):

a system manager "Central Controller Module" that stores information about the story line including information about the one or more virtual characters (Harvey Col 6, lines 20-40) (Covered in claim 1);

an informational message from the system manager to the participant that provides information about the story line but that does not seek a response by the participant (Harvey Col 15, lines 60-67); (A user can decide not to participate)

a response-seeking message a virtual character sent by from the system manager to the participant that seeks a response by the participant (Harvey Col 24, lines 25-45); and

a response by the participant to the response-seeking message that represents how the participant's character interacts with the virtual character in the story line and that is provided to the system manager (Harvey Col 24, lines 45-55);

wherein the system manager progresses the story line along a route based on the participant's response (Harvey Col 27, lines 40-50).

In claim 39, Harvey combined with Toomey, teaches about a system for providing an interactive story line, wherein a participant assumes the role of a character in the story line, interacts with one or more virtual character in the story line and affects the progress of the story line, the system comprising (Fig 7):

a system manager "Central Controller Module" that stores information about the story line, including information about the one or more virtual characters , and including information about a plurality of possible routes that the story line may take as a result of the participant's interaction with the virtual character of the story line (Harvey Col 6, lines 20-40);

a plurality of messages from one or more virtual characters of the story line sent by the system manager to the participant, wherein at least some of the messages are response-seeking messages (Harvey Col 24, lines 25-45); and

a plurality of responses by the participant to the response-seeking messages that are provided to the system manager, the plurality of responses representing how the participant's

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character interacts with one or more virtual characters of the story line (Harvey Col 26, lines 5-15);

wherein the system manager progresses the story line along one of the plurality of possible routes stored by the system manager, the route being dependent on at least some of the participant's responses (Harvey Col 26, lines 5-15).

In claim 40, Harvey combined with Toomey, teaches about a system for providing an interactive story line, wherein a participant assumes the role of a character in the story line, interacts with the one or more virtual characters in the story line and affects the progress of the story line, the system comprising (Fig 7):

a system manager that stores information about the story line, including information about a plurality of possible routes that the story line may take as a result of the participant's interaction with the story line information about the one or more virtual characters in the story line (Harvey Col 24, lines 25-45);

a plurality of messages from the one or more virtual characters sent by the system manager to the participant, wherein at least some of the messages are response-seeking messages, and at least one message includes a web page containing information regarding actual events occurring in reality and fictional information that describes the story line (Harvey Col 26, lines 5-15) (Harvey Col 27, lines 20-30); and

a plurality of responses by the participant to the response-seeking messages that are provided to the system manager, the plurality of responses representing how the participant's character interacts with the one or more virtual characters of the story line (Harvey Col 26, lines 5-15);

wherein the system manager progresses the story line along one of the plurality of possible routes stored by the system manager, the route being dependent on at least some of the participant's responses (Harvey Col 26, lines 5-15).

1. Claims 5, 8, 17, 23, 32 and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,519,629 by Harvey et al and US Patent No. 6,119,147 by Toomey et al in view of US Patent No. 6,357,043 by Ellis et al.

Harvey combined with Toomey, teaches all the limitation but does not explicitly teach about a system of claim 1, wherein the system manager includes a timer, wherein a signal is transmitted from the participant to the system manager upon the participant's review of the message and wherein the timer provides the participant with a certain amount of time to respond.

The use of timer in share medium is well known as disclosed by Ellis. Ellis teaches about a setup screen of an electronic media in which a timely response is needed from a user (Col 25, line 55- Col 26, line10). It would have been obvious at the time of the invention for some one of ordinary skill to use a time out approach in order to prevent congestion.

In a share network media, it is important that every client is served in due time. By waiting for a client to response to a request, a processor is committed to that client while other clients are put on hold. By waiting too long for a response, the request queue becomes large which causes the processor to become overburdened. By allotting the time that is required for a response, the request queue will be maintained at a manageable amount and thus will prevent congestion.

In claim 8, Harvey and Toomey combined with Ellis, teaches about a system of claim 7, further comprising:

a timer that notes when the message is sent to the participant, when the participant reviews the message or when the participant responds to the message (covered in claim 5);

wherein the system manager sends the subsequent message a certain time after the message is sent to the participant, a certain time after the participant reviews the message, or a certain time after the participant responds to the message (covered in claim 5).

In claim 23, Harvey and Toomey combined with Ellis, teaches about a system of claim 22, further comprising:

noting when the message is sent to the participant, when the participant reviews the message or when the participant responds to the message (Harvey Col 24, lines 25-45); and

sending the subsequent message a certain time after the message is sent to the participant, a certain time after the participant reviews the message, or a certain time after the participant responds to the message (covered in claim 5).

In claim 17, Harvey and Toomey combined with Ellis, teaches about a system of claim 6, wherein the message and response between the system manager and participant are exchanged using wireless communication. It is well known in the art that wireless communication is a standard way to communicate in an interactive application (Ellis Col 5, line 60-Col 6, line 5).



In claim 32, Harvey and Toomey combined with Ellis, teaches about a method of claim 21, wherein the message and response are exchanged using wireless communication (covered in claim 17).

In claim 37, Harvey and Toomey combined with Ellis, teaches about a system for providing an interactive story line “game” having a plurality of routes, wherein a participant “user” assumes the role of a character in the story line, interacts with one or more virtual character in the story line and affects the progress of the story line, the system comprising (Fig 7) (Covered in claim 1):

- a system manager that stores information about the story line, including information about the one or more virtual characters (Harvey Col 6, lines 20-40) (Covered in claim 1);

- a message from a virtual character sent by the system manager to the participant that seeks a response by the participant (Harvey Col 24, lines 25-45);

- a response by the participant to the message that represents how the participant's character interacts with the virtual character of the story line and that is provided to the system manager (Harvey Col 24, lines 45-55); and

- a timer that notes when the message is sent to the participant, when the participant reviews the message or when the participant responds to the message (covered in claim 5);

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wherein the system manager progresses the story line along a route by sending a subsequent message from the same or a different virtual character to the participant, the subsequent message having content based on the participant's response, and being sent a certain time after the message was sent to the participant, a certain time after the participant reviewed the message, or a certain time after the participant responded to the message (Harvey Col 26, lines 5-15).

In claim 38, Harvey and Toomey combined with Ellis, teaches about a system of claim 37, wherein the system manager tracks the participant's location in the story line by noting when the message was sent to the participant, when the message was reviewed by the participant, or when the message was responded to by the participant (Harvey Col 22, lines 45-60).

### ***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,371,855 by Gavriloff teaches about a fantasy internet sports game.

US Patent No. 6,763,342 by Mattern et al. teaches about a system and method for facilitating interaction with information stored at a web site.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael S. A. Delgado whose telephone number is (571) 272-3926. The examiner can normally be reached on 7.30 AM - 5.30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn Jr. can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER